

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA (Pittsburgh)**

John K. Kummer	:	CHAPTER 13
Bonnie B. Kummer	:	
Debtors	:	CASE NO: 16-22876-GLT
-----	:	
	:	12 U.S.C. §2605
John K. Kummer	:	
Bonnie B. Kummer	:	Date and Time of Hearing:
	:	Friday, April 30, 2021 at 1:30 p.m.
Movants	:	
v.	:	
	:	
U.S. Bank Trust National Association,	:	Response Due: April 30, 2021
as Trustee of the Bungalow Series III Trust	:	
Respondent	:	
	:	Related to Docket Nos. 54, 55
and	:	
	:	
Ronda Winnecour, Esq. (Trustee)	:	
	:	
Respondents	:	
-----	:	

**RESPONSE TO EMERGENCY MOTION FOR SANCTIONS PURSUANT TO 12
U.S.C. §2605 FOR FAILURE TO PAY ESCROW HOMEOWNERS INSURANCE
BY
U.S. BANK TRUST NATIONAL ASSOCIATION, AS TRUSTEE
OF THE BUNGALOW SERIES III TRUST**

AND NOW, comes the creditor/respondent, U.S. Bank Trust National Association, as Trustee of the Bungalow Series III Trust, by its attorney, Brian E. Caine, Esq. of the law firm of Parker McCay P.A., hereby files the within Response to the Debtor's Motion For Sanctions Pursuant to 12 U.S.C. § 2605 for Failure to Pay Escrowed Homeowners Insurance, and avers as follows:

1. The respondent is U.S. Bank Trust National Association, as Trustee of the Bungalow Series III Trust (“U.S. Bank”).
2. U.S. Bank holds the note and mortgage on the Debtor’s property located at 250 Whippo Avenue, Butler, PA 16001 (“Subject Property”).

3. The mortgage on the Subject Property is being serviced by BSI Financial Services, who uses a vendor to pay/maintain the property insurance on the Subject Property.
4. After reasonable investigation it has been determined that Farmers Mutual Fire Insurance Co. of Marble, PA did not accept an insurance payment which was mailed to them on or about March 1, 2021 to cover the premium. Said payment was returned on or about April 7, 2021- after the March 29, 2021 deadline to have paid the premium. This was of no fault of the Debtors.
5. Per the Debtors' exhibit, Farmers Mutual Fire Insurance Co. of Marble, PA determined the policy should be in cancelled status due to non-payment.
6. Upon receipt of this motion on April 28, 2021, BSI Financial Services and its vendor *immediately* took action to try to pay the premium.
7. Farmers Mutual Fire Insurance Co. of Marble, PA refused to allow the insurance to be reinstated.
8. As of the filing of the motion, BSI Financial Services has been actively working with the insurance company, and with the cooperation of the debtor and with the cooperation of the debtors' attorney to get a new insurance policy in place as soon as possible.
9. **Upon information and belief, the new insurance application has been bound, and is effective May 1, 2021.**

10. 12 U.S.C. § 2605(f) provides:

Damages and costs. Whoever fails to comply with any provision of this section shall be liable to the borrower for each such failure in the following amounts:

(1) Individuals. In the case of any action by an individual, an amount equal to the sum of—

(A) any actual damages to the borrower as a result of the failure;
and

(B) any additional damages, as the court may allow, in the case of a pattern or practice of noncompliance with the requirements of this section, in an amount not to exceed \$2,000.

11. Per 12 U.S.C. §2605(f)(1)(B), the Debtors have not shown, or alleged, a pattern of practice of noncompliance with the with the requirements of 12 U.S.C. §2605.

As such, it is respectfully submitted that the “additional damages” under this subsection are not warranted in this case under §2605(f)(1)(B).

12. All parties in this matter have been actively, and in good faith, communicating and corresponding with each other.

WHEREFORE, Movant respectfully requests that this Court enter an Order:

- a. Granting all relief the Court deems just and equitable under the circumstances.

Date: April 29, 2021

/s/Brian E. Caine, Esq.

Brian E. Caine, Esq.

PA Attorney ID 86057

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